BILL NO. S-93-11~~0~~ 15

ORDINANCE NO. S-93-93

AN ORDINANCE authorizing the City of Fort Wayne, Indiana, to make temporary loans to meet current running expenses for the use of the General Fund, the Fire Fund, the Park Fund, the Debt Service Fund, the Fire Pension Fund, and the Police Pension Fund of the Issuer, in anticipation of and not in excess of current taxes levied in the year 1993, and collectable in the year 1994; authorizing the issuance of temporary loan tax anticipation time warrants to evidence such loans and the sale of such warrants to the Indiana Bond Bank; and appropriating and pledging the taxes to be received in such funds to the punctual payment of such warrants including the interest thereon.

WHEREAS, the City Controller (the "City Controller") of the City of Fort Wayne, Indiana (the "Issuer"), has represented and the Common Council of the Issuer (the "Common Council") now finds that there will be insufficient amounts of moneys in the General Fund, the Fire Fund, the Park Fund, the Debt Service Fund, the Fire Pension Fund, and the Police Pension Fund of the Issuer (collectively, the "Funds") to meet the current running expenses of the Issuer payable from each of such Funds during the fiscal year ending December 31, 1994, and prior to the respective June and December settlement and distribution of taxes levied for each such Fund; and

WHEREAS, the Common Council now finds that temporary loans for the Funds for such purposes should be made and that temporary loan tax anticipation time warrants evidencing such loans should be issued and sold, subject to the terms and conditions set forth herein and in accordance with the provisions of Indiana law; and

WHEREAS, the Common Council hereby determines to participate in the 1994 Advance Funding Program (the "Program") established by the Indiana Bond Bank (the "Bond Bank") whereby the Bond Bank will purchase the temporary loan tax anticipation time warrants and/or temporary interim warrants of the Issuer; and

WHEREAS, in order to participate in the Program the Common Council may be required to issue and sell its temporary loan tax anticipation time warrants to the Bond Bank prior to the final certification of the annual budget levies and tax rates for the Funds for fiscal year 1994 by the Indiana State Board of Tax Commissioners; and

WHEREAS, the levy proposed for collection for each of the Funds in 1994 is estimated to produce in the aggregate, with respect to each such Fund, an amount equal to or in excess of the principal of and interest on the temporary loans for such Fund; and

WHEREAS, a necessity exists for the making of temporary loans evidenced by temporary loan tax anticipation time warrants for each of the Funds in anticipation of the receipt of current revenues for each such Fund levied for the year 1993 and in the course of collection for the year 1994 and the Common Council hereby authorizes the making of temporary loans to procure the amounts necessary, in combination with other available amounts, to meet such current running expenses

for each Fund and to pay necessary costs incurred in connection with the issuance and sale of temporary loan tax anticipation time warrants to evidence such temporary loans; and

WHEREAS, the Issuer has not previously issued temporary loan tax anticipation time warrants payable from 1994 tax revenues with respect to any of the Funds; and

WHEREAS, the Common Council seeks to authorize the issuance of such temporary loan tax anticipation time warrants or temporary interim warrants with respect to each Fund and the sale of such warrants to the Bond Bank pursuant to the provisions of Indiana Code 5-1.5, subject to and dependent upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. It is hereby found and declared that an emergency exists for the borrowing of money and therefore the Issuer is hereby authorized to make temporary loans to meet current running expenses pursuant to the provisions of Indiana Code 36-4-6 for the use and benefit of each of the Funds of the Issuer in anticipation of estimated current tax revenues actually levied for the year 1993 and in the course of collection for the respective Funds in 1994, which loans shall be evidenced by temporary loan tax anticipation time warrants of the Issuer (the "Warrants"). A separate Warrant or Warrants shall be issued with respect to each Fund for each maturity date and all Warrants shall be dated as of the date of delivery thereof to the Bond Bank. The Issuer is authorized to issue Warrants maturing and payable on June 30, 1994, and December 30, 1994, in amounts not to exceed the following:

Fund	Principal Amount Maturing 6/30/94 Not to Exceed:	PrincipalAmount Maturing 12/30/94 Not to Exceed:
General Fund	$8,200,000	$8,200,000
Fire Fund	$4,300,000	$4,300,000
Park Fund	$1,900,000	$1,900,000
Debt Service Fund	$1,900,000	$1,900,000
Fire Pension Fund	$ 570,000	$ 570,000
Police Pension Fund	$ 550,000	$ 550,000

The Warrants shall bear interest prior to maturity at a rate or rates per annum not to exceed a maximum of five and one-half percent (5.50%). The exact rate or rates of interest are to be determined under the terms of a warrant purchase agreement between the Bond Bank and the Issuer to be entered into prior to the sale of the Warrants to the Bond Bank (the "Warrant Purchase Agreement"), in accordance with the provisions of Indiana Code 5-1.5. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

The Issuer is authorized to make payments of principal and interest on the Warrants by paying the amount due from funds that are available for immediate transfer or investment on or before 12:00 noon (Indianapolis time) on the due date to Bank One, Indianapolis, NA, the Bond Bank's Trustee (the "Trustee") under the Note Indenture dated as of January 1, 1994. The Warrants may not be prepaid prior to the due date without the express written consent of the Bond Bank. In the event that the principal of and interest on the Warrants are not paid in full on the due date, the total

amount due and owing on such due date (equal to the unpaid principal and accrued interest thereon to such due date) shall thereafter bear interest at the per annum rate equal to the Reinvestment Rate (as defined in the Warrant Purchase Agreement) until paid. In addition, the Issuer shall be responsible for payment to the Bond Bank of its allocable portion of all fees and expenses attributable to a request for payment under the Credit Facility Agreement (as defined in the Warrant Purchase Agreement) resulting from a failure by the Issuer to pay in full the principal of and interest on the Warrants on the due date.

Section 2. With respect to each Fund and each maturity date, the officers of the Issuer are authorized to deliver a principal amount of Warrants up to or less than the maximum amount established for any such Fund or maturity date in Section 1 hereof in order to comply with all applicable laws and any requirements of the Bond Bank. All Warrants will be delivered on or about January 18, 1994, or otherwise as appropriate and in accordance with the terms of the Warrant Purchase Agreement.

In the event that the Issuer anticipates incurring cash flow deficits prior to the issuance and sale of the Warrants to the Bond Bank, the Issuer is hereby authorized to issue and sell temporary interim warrants to the Bond Bank. The issuance and sale of the temporary interim warrants shall be on substantially the same terms as the issuance and sale of the Warrants to the Bond Bank, all as set forth in the Warrant Purchase Agreement. In the event that temporary interim warrants are issued, all or a portion of the proceeds of the Warrants may be used to repay the temporary interim warrants. Provisions of this Ordinance relating to the issuance of Warrants shall also relate to the issuance of temporary interim warrants to the extent applicable.

Section 3. There is hereby appropriated and pledged to the payment of all Warrants issued with respect to each Fund, including interest and all necessary costs incurred in connection with the issuance and sale of the Warrants, a sufficient amount of the tax revenues, levied for 1993, and payable in 1994, for such Fund and in anticipation of which the Warrants have been issued, for the punctual payment of the principal of and interest on the Warrants evidencing such temporary loans, together with such issuance costs, if any.

Section 4. The Warrants issued hereunder with respect to the Funds shall be executed in the name of the Issuer by the manual or facsimile signature of the Mayor of the City of Fort Wayne, Indiana (the "Mayor"), countersigned by the manual or facsimile signature of the City Controller, and attested by the manual or facsimile signature of the Clerk of the City of Fort Wayne, Indiana (the "Clerk"), or such other officers of the Issuer as may be permitted by law, provided, however, that at least one such signature on the Warrants shall be manual. All Warrants shall be payable in lawful money of the United States of America at the principal corporate trust office of the Trustee. Further, the Warrants shall not be delivered and no payment shall be made therefor prior to January 1, 1994.

Section 5. The Warrants with respect to each Fund shall be issued in substantially the following form

(all blanks, including the appropriate amounts, dates, and other information to be properly completed prior to the execution and delivery thereof):

[Form of Warrant]

UNITED STATES OF AMERICA

STATE OF INDIANA COUNTY OF ALLEN

Due Date: [June 30, 1994, or December 30, 1994] $_____

CITY OF FORT WAYNE, INDIANA
TEMPORARY LOAN TAX ANTICIPATION TIME WARRANT
(_____ FUND)

FOR VALUE RECEIVED, on or before [June 30, 1994, or December 30, 1994], the City of Fort Wayne, Indiana (the "Issuer"), shall pay to the Indiana Bond Bank (the "Bond Bank") the amount of $_____ pursuant to a certain Warrant Purchase Agreement between the Bond Bank and the Issuer, dated as of _____, 1993 (the "Agreement").

In addition, the Issuer on the Due Date hereof shall pay to the Bond Bank interest at the rate of _____% per annum, with such interest to be calculated on the basis of a 360-day year comprised of twelve 30-day months. Under the Note Indenture dated as of January 1, 1994, Bank One, Indianapolis, NA, is serving as the Bond Bank's Trustee (the "Trustee"). In the event that the principal of and interest on this Warrant are not paid in full to the Bond Bank at the principal corporate trust office of the Trustee in immediately available funds on or before 12:00 noon (Indianapolis time) on the Due Date, the total amount due and owing on the Due Date (the unpaid principal and accrued interest to the Due Date) shall thereafter bear interest at the per annum rate equal to the Reinvestment Rate (as defined in the Agreement), until paid. In addition, the Issuer shall pay to the Bond Bank its allocable portion of all fees and expenses attributable to a request for payment under the Credit Facility Agreement (as defined in the Agreement) resulting from a failure by the Issuer to pay in full the principal of and interest on this Warrant on the Due Date.

All payments of principal and interest to be made by the Issuer to the Bond Bank shall be made by paying the amount due in funds that are available for immediate transfer or investment on or before 12:00 noon (Indianapolis time) on the payment date to the Trustee in Indianapolis, Indiana. This Warrant may not be prepaid prior to the Due Date without the express written consent of the Bond Bank.

This Warrant evidences a temporary loan to provide funds to meet current expenses of the _____ Fund, and has been authorized by an ordinance passed and adopted by the Common Council of the City of Fort Wayne, Indiana, on _____, 1993, in accordance with Indiana Code, Title 36, Article 4, Chapter 6, and all other acts amendatory thereof or supplemental thereto.

This Warrant is issued in anticipation of the tax levy which has been made for the _____ Fund

in the year 1993, which tax levy is now in the course of collection. There has been irrevocably appropriated and pledged to the payment in full of the principal of and interest on this Warrant a sufficient amount of the revenues to be derived from the _____ Fund tax levy.

It is further hereby certified, recited, and declared that all acts, conditions, and things required by law precedent to the issuance and execution of this Warrant have been properly done, have happened, and have been performed in the manner required by the constitution and statutes of the State of Indiana relating thereto; that the _____ Fund tax levy from which (together with other amounts in the _____ Fund) this Warrant is payable, is a valid and legal levy; and that the Issuer will reserve a sufficient amount of the proceeds of the _____ Fund tax levy currently in the course of collection for the timely payment of the principal of and interest on this Warrant in accordance with its terms.

IN WITNESS WHEREOF, the City of Fort Wayne, in the County of Allen, State of Indiana, has caused this Warrant to be executed in its corporate name by the Mayor of the City of Fort Wayne, Indiana, countersigned by the City Controller of the City of Fort Wayne, Indiana, and attested by the City Clerk of the City of Fort Wayne, Indiana, all as of the _____ day of _____, 1994.

CITY OF FORT WAYNE, INDIANA

By:_____
Mayor, City of Fort Wayne, Indiana

COUNTERSIGNED:

_____
City Controller, City of Fort Wayne, Indiana

ATTEST:

_____
City Clerk, City of Fort Wayne, Indiana

(End of Form of Warrant)

Section 6. The City Controller is hereby authorized and directed to have the Warrants prepared, and the Mayor, the City Controller, and the City Clerk, or such other officers as may be permitted by law, are hereby authorized and directed to execute all Warrants in the manner and substantially the form provided in this Ordinance.

Section 7. The City Controller, on behalf of the Issuer, is authorized to sell to the Bond Bank the Warrants. The Warrant Purchase Agreement shall set forth the definitive terms and conditions for such sale. Warrants sold to the Bond Bank shall be accompanied by all documentation required by the Bond Bank pursuant to the provisions of Indiana Code 5-1.5 and the Warrant Purchase Agreement, including without limitation an approving opinion of Baker & Daniels, specially designated bond counsel for the Warrants; certification and guarantee of signatures; and certification as to no litigation pending as of the date of delivery of the Warrants to the Bond Bank challenging the validity or

issuance of the Warrants. The entry by the Issuer into the Warrant Purchase Agreement and the execution of the Warrant Purchase Agreement, on behalf of the Issuer by the City Controller and the City Clerk, in accordance with this Ordinance, are hereby authorized and approved.

Section 8. The proper officers of the Issuer are hereby authorized to deliver the Warrants to the Bond Bank, upon receipt from the Bond Bank of payment in accordance with the terms of the Warrant Purchase Agreement.

Section 9. The Mayor, the City Clerk, the City Controller, and other appropriate officers of the Issuer are hereby authorized and directed to make such filings and requests, deliver such certifications, execute and deliver such documents and instruments, and otherwise take such actions as are necessary or appropriate to carry out the terms and conditions of this Ordinance and the actions authorized hereby and thereby.

Section 10. The Issuer hereby covenants that the Issuer and its officers shall not take any action or fail to take any action with respect to the proceeds of any of the Warrants or any investment earnings thereon which would result in constituting any of the Warrants as "arbitrage bonds" under the Internal Revenue Code of 1986, as amended, and any and all final or proposed regulations or rulings applicable thereto, or which would otherwise cause the interest on any of the Warrants to cease to be excludable from gross income for purposes of federal income taxation; and the City Controller and all other appropriate officers are hereby authorized and directed to take any and all actions and to make and deliver any and all reports, filings, and certifications as may be necessary or appropriate to evidence, establish, or ensure such continuing exclusion of the interest on the Warrants.

Section 11. This Ordinance shall be in full force and effect from and after the time it has been adopted by the Common Council, approved by the Mayor, and otherwise executed and delivered in accordance with any and all laws pertaining thereto.

Section 12. All resolutions and ordinances in conflict herewith are, to extent of such conflict, hereby repealed.

Adopted and approved by the Common Council of the City of Fort Wayne, Indiana, this 14th day of December, 1993.

Presiding Officer, Common Council
City of Fort Wayne, Indiana

ATTEST:

City Clerk
City of Fort Wayne, Indiana

PRESENTED BY ME, the undersigned City Clerk of the City of Fort Wayne, Indiana, to the Mayor of the City of Fort Wayne, Indiana, for his approval and signature this _____ day of _____, 1993.

_____
City Clerk
City of Fort Wayne, Indiana

APPROVED AND SIGNED BY ME, the undersigned Mayor of the City of Fort Wayne, Indiana, this _____ day of _____, 1993.

_____
Mayor, City of Fort Wayne, Indiana

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay

_____
J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Lunsey, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) ~~and Public Hearing~~ to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____M., E.S.T.

DATED: 11-23-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Lunsey, ~~seconded by _____~~, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	9			
BRADBURY	✓			
EDMONDS	✓			
GiaQUINTA	✓			
HENRY	✓			
LONG	✓			
LUNSEY	✓			
RAVINE	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 12-14-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~) (SPECIAL) (~~ZONING~~) ORDINANCE ~~RESOLUTION~~ NO. S-93-93 on the 14th day of December, 1993

ATTEST:

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)

Mark C. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1993, at the hour of 2:00 o'clock P ,M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 16th day of December, 1993, at the hour of 11:15 o'clock A P M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

THE CITY OF FORT WAYNE

FORT WAYNE - A WORLD - CLASS COMMUNITY

Paul Helmke
Mayor

DIVISION OF FINANCE AND ADMINISTRATION
CITY COUNCIL ORDINANCE COVER LETTER

To: City Council Members

From: Douglas M. Lehman, City Controller

Date: November 22, 1993

Subject: 1994 Short-Term Borrowing Program

D-93-11-15

For the fifth straight year, the City of Fort Wayne will be participating in the Indiana Bond Bank's Advance Funding Program. This program, within the restrictions imposed by the IRS, attempts to meet the cash flow borrowing needs of governmental entities across Indiana. For example, the borrowing needs for 1994 for the City of Fort Wayne are as follows:

General	$6,549,568
Fire	$3,481,700
Parks	$854,120
Police Pension	$1,260,556
Fire Pension	$1,006,390
Debt Service	$4,597,854
Total	$16,579,520.

The above amounts will be received on January 18, 1994. There will be a partial maturity of the some of the borrowing in the last three funds on June 30, 1994. All of the remainder in all funds will be repaid on December 30, 1994.

Interest rates for 1994 are not yet fixed by the Indiana Bond Bank. They will be somewhat lower than those experienced in 1993. For 1993, the six month borrowings carried a rate of 2.45%, and the full year borrowings carried a rate of 3.62%. We anticpate our 1994 interest expense for this item to be approximately $450,000 across all funds.

DIGEST SHEET

TITLE OF ORDINANCE SPECIAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE CONTROLLER'S OFFICE

SYNOPSIS OF ORDINANCE AUTHORIZES TEMPORARY LOANS TO MEET OPERATING EXPENSES PENDING 1994 TAX REVENUE DISTRIBUTION, CONTINUES RELATIONSHIP WITH INDIANA BOND BANK.

EFFECT OF PASSAGE BORROWING WOULD BE AUTHORIZED.

EFFECT OF NON-PASSAGE BORROWING WOULD NOT BE AUTHORIZED, CITY WOULD NOT MEET OPERATION EXPENSE NEEDS.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) INTEREST RATE NOT TO EXCEED 5.5%; MAXIMUM BORROWING NOT TO EXCEED $17,420,000 DISTRIBUTED THROUGH SIX SEPARATE FUNDS.

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. S-93-11-15

REPORT OF THE COMMITTEE ON
FINANCE

ARCHIE L. LUNSEY & DONALD J. SCHMIDT - CO-CHAIRPERSONS
HENRY, EDMONDS, LONG

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) Time Warrants

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC
Archie Lunsey			
D Schmidt			
Thomas P. Henry			
Marcus R Edmonds			

DATED: 12-14-93

Sandra E. Kennedy
City Clerk